

Application No. 09/676,402  
Reply to Office Action of December 24, 2003

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### REMARKS

#### Agents of Record

For the captioned application, the undersigned attorney advises that the contact agent of record, Alfred Macchione, has relocated his practice to the firm of:

McCarthy Tétrault LLP  
Customer Service #: 27155  
Toronto Dominion Bank Tower  
P.O. Box 48, Suite 4700  
Toronto, Ontario  
M5K 1E6 Canada

Applicant has consented to having contact agent retain responsibility as agent of record.

Undersigned attorney advises that in total the following agents of record are also now associated with the same customer number and have the authority to also act on behalf of the Applicant for the above matter:

Alfred Macchione	Reg. No. 40,333
Robert Nakano	Reg. No. 46,498 (undersigned attorney)
Brian Gray	Reg. No. 30,017
Kenneth Bousfield	Reg. No. 40,460
Christopher Hunter	Reg. No. 52,528

Undersigned attorney also advises that the attorney reference number has been changed to

Atty's Docket No.: T01215-0060 US (123081-339675).

Applicant requests that the USPTO update its records for this application accordingly.

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### Summary of Office Action

In the outstanding Office Action (Paper No. 7), the Examiner cited 35 U.S.C. 103(a) and rejected: (i) claims 1-7, 9, 19, 10, 14, 15 and 17 in view of U.S. Patent nos. 6,150,987 to Sole et al ("Sole"), 4,859,933 to Taylor et al ("Taylor"), 6,285,339 of McGill ("McGill"), 5,787,350 to van der Vorm et al ("van der Vorm") and 6,456,652 to Kim et al ("Kim I"); (ii) claims 8 and 16 in view of Sole, Taylor, McGill, Kim I and U.S. Patent no. 5,784,406 to DeJaco ("DeJaco"); claim 11 in view of Sole, Taylor, McGill, Kim I and U.S. Patent no. 6,188,372 of Jackson ("Jackson"); claims 12 and 13 were rejected in view of Sole, Taylor, McGill, and Kim I; and claim 18 was rejected in view of Kim I, Taylor, McGill, van der Vorm and U.S. Patent no. 5,663,968 of Heuer ("Heuer"). For claims 12 and 13, Applicant notes that U.S. Patent no. 5,978,659 to Kim ("Kim II") was previously cited thereagainst and it is not apparent to Applicant which Kim patent (I or II) is being applied against the claims by the Examiner. Sole was cited as a first instance with the outstanding Office Action and all other citations were identified in earlier office actions.

### In the Claims

In this response, claims 1-29 are provided, wherein claims 1-18 are amended and claims 19-29 are added. There are 29 claims in total. Applicant notes that extra claim fees are payable for added claims 21-29 and authorizes Commissioner to charge such fees, as identified in the accompanying fee sheet, to Agent's account 15-0633.

Applicant traverses rejection of claims 1-18 as follows.

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Claims 1 and 14 are amended to further refine its preamble to indicate that the system is determines an optimum location for a subscriber communication site. In the process of determining an optimum site, various sites may be evaluated. As such, the current site under test is a tentative site. To that end, the body of the claims are amended to more clearly identify the location of the antenna as a tentative location. A further amendment replaces the phrase "for orientating" to --for enabling orientation--.

Applicant traverses rejection of claims 1 and 14 under 35 U.S.C. 103(a) as follows. Claims 1 and 14 determine an optimum location for an antenna for a remote location in evaluating potentially a series of tentative sites for one given base station. There is no motivation to combine the cited prior art of Sole, Taylor, van der Vorm and Kim I to provide Applicant's invention. Further still, none of the prior art, alone or in any combination, teaches all aspects of Applicant's invention as claimed. In particular, in Sole, its field of use is not the same as the field of Applicant's invention. Specifically, Sole's antenna system is used only after a subscriber site has been chosen and only to scan for a preferable base station from a series of base stations for the fixed subscriber site. See Fig. 3 and column 1, lines 55 to 64. Next, in Taylor, its system is used to measure ambient EMI at a particular site, and not to find an optimum location for an antenna. See the Abstract of Taylor. Next, further to Applicant's response dated November 6, 2003 (filed as Paper 4), van der Vorm is directed towards a method of determining a location of a base station and not a subscriber station antenna. Finally, further to Applicant's response dated September 17, 2003 (filed as Paper 6), Kim I simply evaluates signals received by a mobile station, but does not adjust a position of an antenna at the mobile station. As the fields of use of Sole, Taylor, van der Vorm and

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Kim I are each separate and distinct from each other, there is no motivation to search each field of each piece of prior art to develop a system similar to Applicant's invention for as claimed in claims 1 and 14. Further, the cited portions of the prior art do not combine to teach a system for evaluating a tentative antenna site, as claimed. As such, rejections of claims 1 and 14 are traversed.

Claims 2 and 8-13 are amended to replace each claims' initial word, "A", with --The--, thereby correcting each claim's antecedent for its preamble.

Claim 3 is amended to correct the initial claim antecedent in the preamble and to clarify how signals are manipulated by the elements defined therein. Exemplary support for the amendment is provided in Fig. 5 and in the specification at page 10, line 15 to page 12, line 5.

Claim 4 is amended to replace the term "modem" with --network interface unit-- and to add a switching device to its elements. Exemplary support for the amendment is found in Figure 5, with switching element 502 and the specification at page 12, lines 3-5. Applicant notes that Taylor does not teach a switching device. Further, there is no motivation in Sole to have an upstream communication link to the base station, as its invention is intended to be an inexpensive system for re-orienting an antenna. See column 1, lines 48-51.

Claim 5 is amended to clarify operation of the signal analyzer. Claim 6 is amended to replace the term "network interface unit" with --modem--. Claim 7 is amended to further clarify the coupler as being directional and to make its elements consistent with amendments made in claim 4.

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Regarding claim 11, as with claims 1 and 14, there is no motivation to combine Sole, Taylor, van der Vorm and Kim I with Jackson to provide an antenna system as claimed in claim 11. In particular, Jackson relates to an antenna system for communicating with a satellite, and as such is not relevant to the field of Applicant's invention.

Regarding claims 12 and 13, in addition to comments already provided regarding Sole, Taylor, van der Vorm and Kim I, Applicant submits that Kim I does not teach attenuating a received signal at a tentative subscriber site for evaluating its suitability for a particular base station. In fact, Kim I simply teaches using an attenuator to vary a transmitted signal from a base station. There is no indication in Kim I to modify its attenuator so that it could be used as claimed in Applicant's invention.

Claims 15, 16 and 17 are amended to correct the preamble antecedent in the claims, replacing the claim's initial word, "A", with --The--, thereby correcting each claim's antecedent for its preamble.

In view of amendments and submissions of Applicant regarding claims 1 and 14 and in view of additional amendments and submissions made regarding claims 3, 4, 5, 6 and 7, Applicant traverses rejection of claims 2-13 and 15-17.

Regarding claim 18, as noted earlier, each of Sole, Taylor, van der Vorm and Kim I is directed towards different fields of art from the other citations and as such, there is no motivation to collectively combine their features to teach a method for simulating atmospheric conditions using a testing system as defined in claim 18. Further still, Heuer is not in the same field as any of Sole, Taylor, van der Vorm and Kim I, and there is no

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motivation to combine its system with any of them. In particular, Heuer describes only a test apparatus for measuring a set of margins of analogue transmission and reception parameters of wired communications. It detects faults in a two-wire line or a termination unit, caused by, for example, high attenuation at some frequencies, crosstalk between cable pairs, impulse noise, or line balance problems. Heuer provides no motivation to apply its system system to a wireless communication system. As such, no motivation to combine any aspect of Heuer with Sole, Taylor, van der Vorm and Kim I and Applicant traverses rejection of claim 18.

New claims 19 to 29 are added and define further aspects of the invention. New claims 19-23 are dependent from claim 1 and define further aspects relating to the signals used by the testing system. Exemplary support for claims 19-23 is found in Fig. 6 and in the specification at page 12, line 6 to page 13, line 20. New claims 24 and 25 are dependent from claim 14 and define further aspects relating to testing and choosing an optimal location from several sites. Exemplary support for claims 24 and 25 is found in the specification at page 12, line 6 to page 13, line 6. New claims 26-29 define a method of establishing an optimal location for a fixed subscriber communication site. Exemplary support for new claims 26-29 is found in Figs. 6 and 7 and in the specification at page 12, line 6 to page 14, line 18.

No new subject matter is added by any amendment to any claim or by the new claims.

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**Closing Comments**

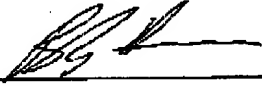
Applicant believes that no petition of time is required for the filing of this response. However, if any extension of time is required, Applicant hereby petitions for a sufficient extension and authorizes Commissioner to charge any related extension fees, or any other required fees, to Agent's account 15-0633.

In view of each of the amendments and comments herein, Applicant submits that the claims as provided herein and the application is in condition for allowance and that all rejections are traversed. As such, Applicant earnestly solicits that this application be permitted to proceed to allowance. The Examiner is invited to contact the undersigned by telephone to discuss this case further, if necessary.

Respectfully submitted

March 24, 2004

Date

  
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